

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNITED STATES OF AMERICA	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 07 CR 837
	)	Hon. Elaine Buklo
CHRISTOPHER G. KELLY,	)	Mag. Judge Schenkier
	)	
Defendant.	)	

**DEFENDANT S MOTION FOR GOVERNMENT S DISCLOSURE  
OF 404(b) AND INTRICATELY RELATED EVIDENCE**

NOW COMES the Defendant, CHRISTOPHER G. KELLY, by and through his attorneys, MONICO PAVICH, & SPEVACK, pursuant to Rule 12(b)(2) of the Federal Rules of Criminal Procedure and Rule 104(a) of the Federal Rules of Evidence, and respectfully requests that the Court enter an order requiring the government to file a proffer forthwith of any evidence it may seek to admit pursuant to Rule 404(b) of the Federal Rules of Evidence at least 8 weeks prior to trial.

As part of this disclosure, Defendant also requests that the Court order the Government to disclose evidence that it will seek to introduce as intricately related, so that a ruling may be made before trial whether such evidence is actually 404(b) evidence and is governed by that rule s narrow strictures of admissibility.

IN SUPPORT of this Motion Defendant states:

1. Rule 404(b) of the Federal Rules of Evidence expressly provides that upon request, the prosecution, in reasonable advance of trial, must provide notice of other act evidence that it

intends to introduce against the Defendant. Pretrial notice is intended to reduce surprise and promote early resolution on the issue of admissibility. Fed. R. Evid. 404(b), Notes of the Committee on the Judiciary, Senate Report No. 93-1277 (1991 Amendment).

2. If the Government does intend to introduce Rule 404(b) evidence, the Defendant needs sufficient time to investigate the allegations and prepare to meet them. In addition, the Defendant needs sufficient time to analyze the evidence and decide whether the evidence truly qualifies as Rule 404(b) or is otherwise admissible, and the Court needs time to consider and decide any objections the Defendant may file.

3. For the same reasons set forth above, the Government should also disclose no later than eight (8) weeks prior to trial what evidence it intends to introduce as intricately related, *see, e.g., United States v. King*, 126 F.3d 987, 995 (7th Cir. 1997), so that the Defendant has an opportunity sufficiently prior to trial to determine whether such evidence really qualifies as intricately related as opposed to Rule 404(b).

4. Thus, the Government should identify specifically the evidence it intends to introduce as intricately related sufficiently in advance of trial so that the Defendant can fairly direct his energies towards the evidence that will be presented in this case and have time to raise any legal objections sufficiently to the evidence he may have.

Accordingly, the Defendant requests that this Court enter an order requiring the Government to file a Rule 404(b) proffer of any proposed other acts by Mr. Kelly that it may

seek to admit, including intricately related evidence at least 8 weeks prior to trial.

Respectfully Submitted,  
Christopher G. Kelly

\_\_\_\_\_By: /s/ Barry A. Spevack  
One of his Attorneys

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